

CIVIL MOTIONS CALENDAR
FIRST CIRCUIT
TWENTY FIRST DIVISION

DATE: TUESDAY, JUNE 19, 2007
JUDGE: HONORABLE BERT I. AYABE, JUDGE PRESIDING
CLERK:
REPORTER:
BAILIFF/LAW CLERK: C. ABE

-----PAGE

1

10:00 A.M.

1CC 02-1-000090 KELLEY WOODRUFF MD
VS.
HAWAI'I PACIFIC HEALTH ETAL

ARLEEN DOROTHY JOUXSON
RAFAEL GOODWIN DEL CASTIL
FOR KELLEY WOODRUFF

KENNETH S ROBBINS
LEIGHTON MASATO HARA
WENDY MASAKO YAMAMOTO
CHARLES ROBERT CHING
PATRICK HUDSON JONES
FOR KAPIOLANI MEDICAL SP

JOHN T KOMEIJI
KAREN YUKIE ARIKAWA
GREGG MINORU USHIRODA
FOR DELOITTE & TOUCHE LL

JOHN S NISHIMOTO
MICHAEL JOHN VAN DYKE
FOR DENNIS M WARREN

1) DEFT DELOITTE & TOUCHE LLP'S M/SUMMARY JDGMT AS
TO ALL REMAINING CTS OF THE 2ND AMENDED COMPLAINT
FLD ON FEBRUARY 17, 2005, OR ALTERNATIVELY, TO

ENFORCE STIPULATION TO DISMISS (MVT: K. ARIKAWA)

2) DEFTS HI PACIFIC HEALTH, KAPIOLANI MEDICAL
SPECIALISTS, KAPIOLANI MEDICAL CENTER FOR WOMEN &
CHILDREN, ROGER DRUE, FRANCES HALLONQUIST, NEAL

WINN & SHERREL HAMMAR'S MOTION FOR PARTIAL
SUMMARY JUDGMENT (MVT: K. ROBBINS)

*****CT RPTR BRIAN FAXVOG*****

10:14:29-11:20:30 A.M. CT CLK: P. TAKEUCHI
APPEARANCES: RAFAEL DEL CASTILLO/ARLEEN JOUXSON
F/PLTFS
KAREN ARIKAWA F/DEFT DELOITTE & TOUCHE

Exhibit "A"

CIVIL MOTIONS CALENDAR
FIRST CIRCUIT
TWENTY FIRST DIVISION

DATE: TUESDAY, JUNE 19, 2007
JUDGE: HONORABLE BERT I. AYABE, JUDGE PRESIDING
CLERK:
REPORTER:
BAILIFF/LAW CLERK: C. ABE

-----PAGE

2

KENNETH ROBBINS/ANDERSON MEYER F/DEFTS HI
PACIFIC HEALTH, KMS, KMCWC, DRUE,
HALLONQUIST, WINN & HAMMAR
COURT ADDRESSED <DEFT DELOITTE & TOUCHE MSJ AS
TO ALL REMAINING CTS OF THE 2ND AM. COMPLAINT,
ETC.> FIRST.

FOR GOOD CAUSE SHOWN ON THE RECORD, THE MOTION
WILL BE GRANTED. COURT WILL DENY THE MOTION FOR
FEES AND COSTS.

COURT NOTED THAT DELOITTE & TOUCHE, AS WELL AS
DENNIS WARREN ARE OUT OF THE CASE.

MS. ARIKAWA WILL WITHDRAW ALL PENDING MOTIONS
B/F THE COURT WITHOUT PREJUDICE.

MS. ARIKAWA TO PREPARE THE ORDER FOR THIS
MORNING'S MOTION.

AS FOR THE 2ND MTN <DEFTS HI PACIFIC HEALTH,
ETC. MOTION FOR PARTIAL SJ>, AFTER HEARING
ARGUMENTS OF COUNSEL, COURT TOOK THE MATTER UNDER
ADVISEMENT.

HEARING CONCLUDED.

*****MINUTE ORDER <7/6/07>*****

BASED ON THE MEMORANDA SUBMITTED, THE RECORD AND
FILES IN THIS CASE AND FOR GOOD CAUSE SHOWN, THE
COURT GRANTS IN PART AND DENIES IN PART DEFENDANTS
HAWAII PACIFIC HEALTH, KAPIOLANI MEDICAL
SPECIALISTS, KAPIOLANI MEDICAL CENTER FOR WOMEN
AND CHILDREN, ROGER DRUE, FRANCES A. HALLONQUIST,
NEAL WINN, M.D. AND SHERREL HAMMAR, M.D.'S MOTION
FOR PARTIAL SUMMARY JUDGMENT, FILED ON MAY 11,
2007.

AS TO COUNT VIII (VIOLATION OF DUE PROCESS), THE
COURT FINDS THAT THERE ARE NO GENUINE ISSUES OF
MATERIAL FACT THAT DR. WOODRUFF DID NOT HAVE AN
EMPLOYMENT CONTRACT WITH KMS EXPRESSLY
INCORPORATING THE KMCWC MEDICAL STAFF BYLAWS.
THEREFORE, THE COURT GRANTS THE MOTION WITH
RESPECT TO COUNT VIII FOR KMS. THE COURT,
HOWEVER, DENIES THE MOTION WITHOUT PREJUDICE AS IT
PERTAINS TO KAPIOLANI MEDICAL CENTER FOR WOMEN AND
CHILDREN (KMCWC), AS ITS APPLICATION TO KMCWC WAS

CIVIL MOTIONS CALENDAR
FIRST CIRCUIT
TWENTY FIRST DIVISION

DATE: TUESDAY, JUNE 19, 2007
JUDGE: HONORABLE BERT I. AYABE, JUDGE PRESIDING
CLERK:
REPORTER:
BAILIFF/LAW CLERK: C. ABE

-----PAGE

3

NOT ADDRESSED IN THE MOTION.
AS TO COUNT IX (DEFAMATION), THE COURT FINDS
*****CONTINUATION ON PHASE A*****

CIVIL MOTIONS CALENDAR
FIRST CIRCUIT
TWENTY FIRST DIVISION

DATE: TUESDAY, JUNE 19, 2007
JUDGE: HONORABLE BERT I. AYABE, JUDGE PRESIDING
CLERK:
REPORTER:
BAILIFF/LAW CLERK: C. ABE

-----PAGE 1

10:00 A.M.

ICC 02-1-000090 KELLEY WOODRUFF MD
VS.
HAWAI'I PACIFIC HEALTH ETAL

ARLEEN DOROTHY JOUXSON
RAFAEL GOODWIN DEL CASTIL
FOR KELLEY WOODRUFF

KENNETH S ROBBINS
LEIGHTON MASATO HARA
WENDY MASAKO YAMAMOTO
CHARLES ROBERT CHING
PATRICK HUDSON JONES
FOR KAPIOLANI MEDICAL SP

JOHN T KOMEIJI
KAREN YUKIE ARIKAWA
GREGG MINORU USHIRODA
FOR DELOITTE & TOUCHE LL

JOHN S NISHIMOTO
MICHAEL JOHN VAN DYKE
FOR DENNIS M WARREN

****CONTINUATION OF 6/19/07 MINUTES****

THAT THERE ARE NO GENUINE ISSUES OF MATERIAL FACT THAT THE STATEMENTS MADE BY DR. WINN AND DR. HAMMAR WERE NOT FALSE. ADDITIONALLY, HPH HAD A QUALIFIED PRIVILEGE, AS THEY HAD A DUTY TO DISCUSS THE RESULTS OF THE D&T INVESTIGATION WITH OTHERS WHO WORKED FOR OR WORKED WITH KAPIOLANI IN ORDER TO ENSURE CORPORATE COMPLIANCE WITH THE BILLING REQUIREMENTS PURSUANT TO THE CORPORATE INTEGRITY AGREEMENT. THE COURT FURTHER FINDS THAT THE PRIVILEGE WAS NOT ABUSED. THEREFORE, THE COURT GRANTS HPH'S MOTION WITH RESPECT TO COUNT IX.

AS TO COUNT X (RETALIATORY DISCHARGE), THE COURT FINDS THAT 18 USCS 1513(E), AS CITED BY PLTFs, IS INAPPLICABLE TO THIS CASE. IN ADDITION, PLTFs FAILED TO IDENTIFY ANY CONSTITUTIONAL, STATUTORY OR REGULATORY PROVISION OR SCHEME THAT FORMS THE

CIVIL MOTIONS CALENDAR
FIRST CIRCUIT
TWENTY FIRST DIVISION

DATE: TUESDAY, JUNE 19, 2007
JUDGE: HONORABLE BERT I. AYABE, JUDGE PRESIDING
CLERK:
REPORTER:
BAILIFF/LAW CLERK: C. ABE

-----PAGE

2

BASIS FOR THE CLEAR MANDATE OF PUBLIC POLICY IN
PARNAR V. AMERICANA HOTELS, INC., 65 HAW. 370, 652
P.2D 625 (1982). THEREFORE, THE COURT GRANTS THE
MOTION AS TO COUNT X.

AS TO COUNT XI (PROMISSORY ESTOPPEL), THE COURT
FINDS THAT THIS CLAIM IS BASED ON THE SAME SET OF
FACTS THAT GAVE RISE TO THE BREACH OF CONTRACT
CLAIM. THEREFORE, THE COURT GRANTS THE MOTION AS
TO COUNT XI.

AS TO COUNT XII (BREACH OF CONTRACT), THE COURT
FINDS THAT THERE ARE NO GENUINE ISSUES OF MATERIAL
FACT THAT DR. WOODRUFF WAS AN "AT WILL" EMPLOYEE
OF KAPIOLANI MEDICAL SPECIALISTS (KMS), AS HER
EMPLOYMENT WAS FOR AN INDEFINITE DURATION. IN
ADDITION, DR. WOODRUFF REPEATEDLY ACKNOWLEDGED HER
"AT WILL" STATUS IN VARIOUS KMS DOCUMENTS THAT SHE
SIGNED, SUCH AS HER EMPLOYMENT APPLICATION,
EMPLOYMENT AGREEMENT AND HANDBOOK ACKNOWLEDGEMENT
FORMS. THE EMPLOYMENT APPLICATION WHICH DR.
WOODRUFF SIGNED ON 8/28/97 SPECIFICALLY PROVIDED,
'I UNDERSTAND THAT IF I AM EMPLOYED, MY EMPLOYMENT
IS "AT WILL" AND CAN BE TERMINATED AT ANY TIME,
EITHER BY MYSELF OR KAPI'OLANI HEALTH, WITH OR
WITHOUT CAUSE OR REASON.' HER EMPLOYMENT
AGREEMENT PROVIDED, 'I UNDERSTAND THAT EMPLOYMENT
IS ON AN "AT WILL" BASIS.' THE COURT FURTHER
FINDS THAT NONE OF THE EXCEPTIONS TO THE "AT WILL"
DOCTRINE APPLY IN THIS CASE. THEREFORE, THE COURT
GRANTS THE MOTION WITH RESPECT TO COUNT XII FOR
KMS. THE COURT, HOWEVER, DENIES HPH DEFTS' MOTION
WITHOUT PREJUDICE AS TO COUNT XII WITH RESPECT TO

CONTINUATION ON PHASE B

CIVIL MOTIONS CALENDAR
FIRST CIRCUIT
TWENTY FIRST DIVISION

DATE: TUESDAY, JUNE 19, 2007
JUDGE: HONORABLE BERT I. AYABE, JUDGE PRESIDING
CLERK:
REPORTER:
BAILIFF/LAW CLERK: C. ABE

-----PAGE

1

10:00 A.M.

1CC 02-1-000090 KELLEY WOODRUFF MD
VS.
HAWAI'I PACIFIC HEALTH ETAL

ARLEEN DOROTHY JOUXSON
RAFAEL GOODWIN DEL CASTIL
FOR KELLEY WOODRUFF

KENNETH S ROBBINS
LEIGHTON MASATO HARA
WENDY MASAKO YAMAMOTO
CHARLES ROBERT CHING
PATRICK HUDSON JONES
FOR KAPIOLANI MEDICAL SP

JOHN T KOMEIJI
KAREN YUKIE ARIKAWA
GREGG MINORU USHIRODA
FOR DELOITTE & TOUCHE LL

JOHN S NISHIMOTO
MICHAEL JOHN VAN DYKE
FOR DENNIS M WARREN

****CONTINUATION OF 6/19/07 MINUTES****

KMCWC, AS THE ISSUE, AS IT PERTAINS TO KMCWC, WAS NOT ADDRESSED IN THE MOTION.

AS TO COUNT XIII (BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING), THE COURT FINDS THAT THERE ARE NO GENUINE ISSUES OF MATERIAL FACT THAT DR. WOODRUFF DID NOT HAVE AN EMPLOYMENT CONTRACT WITH KMS EXPRESSLY INCORPORATING THE KMCWC MEDICAL STAFF BYLAWS. IN ADDITION, PURSUANT TO PARNAR, HAWAII DOES NOT RECOGNIZE THE DUTY OF AN EMPLOYER TO TERMINATE IN GOOD FAITH. THEREFORE, THE COURT GRANTS HPH'S MOTION AS TO COUNT XIII.

AS TO COUNT XIV (TORTIOUS INTERFERENCE WITH ECONOMIC ADVANTAGE), THE COURT DENIES THE MOTION WITHOUT PREJUDICE, AS DUE TO THE LATE SUBMISSION BY PLAINTIFFS OF THE DECLARATION OF KELLEY WOODRUFF, M.D., FILED ON JUNE 14, 2007 UNDER SEAL,

CIVIL MOTIONS CALENDAR
FIRST CIRCUIT
TWENTY FIRST DIVISION

DATE: TUESDAY, JUNE 19, 2007
JUDGE: HONORABLE BERT I. AYABE, JUDGE PRESIDING
CLERK:
REPORTER:
BAILIFF/LAW CLERK: C. ABE

-----PAGE

2

HPH WAS NOT ABLE TO FULLY ADDRESS PLAINTIFF'S
CONTENTIONS.

AS TO COUNT XV (PRIMA FACIE TORT), THE COURT
GRANTS HPH'S MOTION.

MR. ROBBINS TO PREPARE THE ORDER.

A COPY OF THIS MINUTE ORDER OF 07/06/07 WAS
MAILED TO RAFAEL DEL CASTILLO/ARLEEN JOUXSON,
KAREN ARIKAWA AND KENNETH ROBBINS/ANDERSON MEYER
BY U.S. MAIL, POSTAGE PREPAID.